

IN THE DRAWINGS

Subject to the approval of the Examiner, please replace the originally filed Figures 4A, 4B, and 5 (3 sheets) with the enclosed Replacement Figures 4A, 4B, and 5 (3 sheets). In Replacement Figures 4A, 4B, and 5, SEQ ID NO identifiers for the nucleic acid sequences have been added.

REMARKS

Claims 1 to 14 and 19 to 32 have been cancelled without prejudice or disclaimer. Claims 15 to 17 have been amended. Claims 15 to 18 are pending and under consideration.

Applicants have amended the title. Applicants have also amended the specification to update the related application information. Applicants have also amended the specification to add the Sequence Listing, add Sequence Identification Numbers, and correct typographical errors. Those amendments add no new matter.

The paper copy of the Sequence Listing is identical to the computer readable form (CRF) copy of the Sequence Listing filed in parent U.S. Patent Application No. 10/167,337, and adds no new matter. In accordance with 37 C.F.R. § 1.821(e), please use the CRF filed in that application as the CRF for the instant application. It is understood that the U.S. Patent and Trademark Office will make the necessary change in application number and filing date for the instant application.

Subject to the approval of the Examiner, applicants have replaced Figures 4A, 4B, and 5 with Replacement Figures 4A, 4B, and 5. The Replacement Figures add Sequence Identification Numbers and add no new matter.

The amendments to claim 15 merely replace the language "one or more" with "a plurality of" and change the term "polynucleotide(s)" to "polynucleotides." Those amendments add no new matter. The amendment to claim 16 merely changes the term "polynucleotide(s)" to "polynucleotides." That amendment adds no new matter. The amendment to claim 17 merely inserts the language "different-sequence" into the claim.

That language tracks the language in claim 16, from which claim 17 depends. That amendment adds no new matter.

Title

The Examiner alleges that the title of the invention is not descriptive. See the Action at page 2, item 1. Solely to expedite prosecution, applicants have amended the specification to include the title “Method for Distinguishing Different-Sequence Polynucleotides.” That amendment should obviate the Examiner’s objection.

Specification

The Examiner objects to the specification as allegedly containing informalities. Specifically, the Examiner alleges that the continuation information must be updated to reflect the issuance of U.S. Patent Application No. 10/167,337 as U.S. Patent No. 6,759,202 (“the ‘202 patent”). See the Action at page 2, item 2. Applicants have amended the continuation information to reflect the issue of the ‘202 patent.

Rejections Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejects claims 15 to 18 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. See the Action at page 2, item 3. Specifically, the Examiner alleges that the use of the language “one or more” is confusing. See *id.* Solely to expedite prosecution and without acquiescing to the Examiner’s rejection, applicants have amended claim 15 to replace the language “one or more” with the language “a plurality of.” That amendment should obviate the Examiner’s rejection.

Double Patenting Rejection

The Examiner rejects claims 15 to 18 under the judicially created doctrine of obviousness-type double patenting over certain claims of U.S. Patent Nos. 5,514,543 and 6,759,202. See Action at pages 2 to 3, item 4.

Without acquiescing to the rejection, if the claims are otherwise found in condition for allowance, applicants will file a terminal disclaimer.

If the Examiner does not consider the application to be in condition for allowance (but for the filing of a terminal disclaimer), applicants request that he call the undersigned at (650) 849-6658 to set up an interview.

Please grant any extensions of time required to enter this Amendment and Response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 7, 2005

By: _____



Michael R. Albrecht
Reg. No. 54,956
Customer No. 22,852